

Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

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Federal Communications Commission  
Office of Secretary

In the Matter of

Amendment of Section 73.202(b),  
Table of Allotments,

FM Broadcast Stations.  
(Lebanon, Missouri)

RM-10567

To: Office of Secretary  
Attention: Assistant Chief, Audio Division

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**MOTION TO ACCEPT**  
**OPPOSITION TO PETITION FOR RECONSIDERATION**

KDAA-KMOZ, LLC ("KKL"), licensee of KDAA(FM), Channel 248A, Rolla, Missouri, by counsel, hereby files this Motion to Accept Opposition to Petition for Reconsideration. On July 25, 2005, Four Him Enterprises, L. L. C. ("Four Him") filed a Petition for Reconsideration ("Petition") directed to the *Memorandum Opinion and Order, Lebanon, Missouri*, DA 05-1715, released June 24, 2005 ("MO&O"), that denied Four Him's petition for reconsideration of the return of Four Him's Petition for Rule Making seeking to upgrade to KHZR (formerly KHCR), Potosi, Missouri to Channel 249C2. The upgrade of KHZR would require the downgrade to Channel 249C0 of Station KJEL, Lebanon, Missouri, and the modification of license of Station KDAA, to operate on Channel 276A. Thus, KKL would be directly affected by the outcome of this proceeding.

The certificate of service shows that Four Him mailed a copy of the Petition to KKL's offices at Springfield, Missouri. Even though undersigned counsel had filed pleadings in this case, Four Him did not serve a copy of the pleading on counsel as required by Section 1.47(c) of the

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Rules. Undersigned counsel has been advised by KKL's president that KKL's president was out of the country and first reviewed a copy of the pleadings on Monday, August 9, 2005. KKL's president and undersigned counsel discussed this matter late on the afternoon of August 9, 2005, which is 15 days following the date on which the petition was served. Under Section 1.429(e) of the Rules, public notice of timely filed petitions for reconsideration is to be given in the Federal Register, and "the time for filing oppositions to the petition runs from the date of public notice." In the event that the Commission does not give notice of the MO&O in the Federal Register, and in an abundance of caution, KKL is filing this motion. If the deadline to file an opposition to the Petition was August 9, 2005, good cause exists for the acceptance and consideration of KKL's opposition. Due to facsimile transmission problems, counsel received part of the pleading on August 9, too late to file a response, and the remainder on August 10, 2005. As a result, KKL is filing its Opposition to Petition for Reconsideration today, as quickly as possible and only one day after the deadline (assuming the deadline was August 9).

In light of the foregoing, KKL respectfully requests the Audio Division to accept its Opposition to Petition for Reconsideration.

Respectfully submitted,

KDAA-KMOZ, LLC

A handwritten signature in black ink, appearing to be "Gary S. Smithwick", written over a horizontal line.

Gary S. Smithwick  
Its Attorney

Smithwick & Belendiuk, P. C.  
5028 Wisconsin Avenue, NW, Suite 301  
Washington, DC 20016  
202-363-4560

August 10, 2005

## CERTIFICATE OF SERVICE

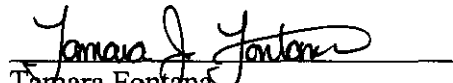
I, Tamara Fontana, do hereby certify that a copy of the foregoing "Motion to Accept Opposition to Petition for Reconsideration" was mailed by First Class U.S. Mail, postage prepaid (or hand delivery, as marked with an asterisk), this 10th day of August, 2005, to the following:

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Tamara Fontana